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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,191	02/14/2001	Eric Jonathan Bauer	Baucr 9-1	6821
7590	01/20/2004			
Ryan, Mason & Lewis, L.L.P. Suite 205 1300 Post Road Fairfield, CT 06430			EXAMINER DEANE JR, WILLIAM J	
			ART UNIT 2642	PAPER NUMBER

DATE MAILED: 01/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/783,191

Applicant(s)

BAUER ET AL.

Examiner

William J Deane

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

In view of the Appeal Brief filed on 10/20/03, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, there is no proper antecedent basis for “said connections” in claim 1, line 4. The same is true at line 6 of claim 10. Claim 19, line 4 and Claim 27, line 6 also lack proper antecedent basis for “said connections”.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 10, 17 – 19 and 27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,546,395 (Sharma et al.).

Sharma et al. teach the claimed method (see Abstract and Col. 1, line 67 – Col. 2, line 24). Note the “at least one connection” as recited in the instant claims. Note multiple applications Col. 32, line 31 – Col. 33, line 4.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 – 7, 9, 11 – 16, 20 – 26, 28 – 37 and 40 - 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view U.S. Patent No. 5,926,483 (Javitt).

With respect to claims 7, 16, 25, 33, 35 - 36, Sharma et al. teach the claimed device except for the multiple connections and the call segments or half circuits and the independently selecting aspect, as claimed by applicant. However, note that Javitt teaches such at Col. 3, lines 56 – 64 and Col. 4, lines 57 – 61. It would have been

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obvious to one of ordinary skill in the art to have incorporated the ability to dynamically and independently adjust the bandwidth utilized by a plurality of applications amongst a plurality of connections, as such would only entail the duplication of dynamically adjusting the bandwidth for applications over a single connection, which as shown above, Sharma et al. discloses.

With respect to claims 5, 14 and 23, it would have been obvious to one of ordinary skill in the art to have selected an encoding scheme that performs well under the network conditions.

With respect to claims 2 – 4, 6, 11 - 13, 15, 20 – 22, 24, 28 – 30 and 32, note the Abstract of Javitt and Col. 2, lines 25 – 31 of Javitt.

With respect to claims 8 - 9, 17 - 18, 26, 31 and 34, note Col. 30, lines 55 – Col. 32, lines 40 of Sharma et al.

With respect to claim 37, note Col.3, line 60 – Col. 4, line 23 of Sharma et al.

With respect to claims 40 – 41, note compression rate or encoding scheme is based on speed and volume (amount of silence detected). See Abstract of Sharma et al.

Claims 38 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. and Javitt in view of U.S. Patent No. 6,104,803 (Weser et al.).

Sharma and Javitt teach the claimed method except for the particular application being an IVR. However, Weser et al. teach that IVRs are old in the art (Col. 2, line67 – Col. 3, line14) and it would have been obvious to one of ordinary skill in the art to have

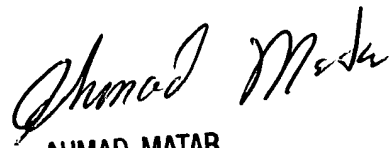
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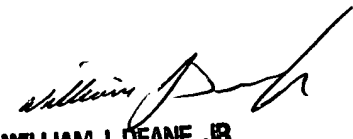
incorporated such an IVR into the Sharma/Javitt method as such would only entail the substitution of one know application for another.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

12Jan04

  
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